

THE NATIONAL ARCHIVES
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 MANET
 OF THE UNITED STATES
 1934
FEDERAL REGISTER
 VOLUME 13 NUMBER 104

Washington, Thursday, May 27, 1948

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

FEDERAL POWER COMMISSION; LISTS OF POSITIONS EXCEPTED

Under authority of § 6.1 (a) of Executive Order No. 9830, and at the request of the Federal Power Commission, the Commission has determined that one additional position of Assistant General Counsel should be excepted from the competitive service, and that the positions of General Counsel and two Assistant General Counsels, which are now excepted under Schedule B, should be placed under Schedule A. Effective upon publication in the **FEDERAL REGISTER**, § 6.4 (b) (10) (i) is revoked and § 6.4 (a) (22) is amended by the addition of a new subdivision, as follows:

§ 6.4 *Lists of positions excepted from the competitive service—(a) Schedule A.*

(22) *Federal Power Commission.* . . .

(vi) A General Counsel and three Assistant General Counsels.

(Sec. 6.1 (a) E. O. 9830, 12 F. R. 1259)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] H. B. MITCHELL,
President.

[F. R. Doc. 48-4745; Filed, May 26, 1948; 8:48 a. m.]

TITLE 7—AGRICULTURE

Chapter VII—Production and Marketing Administration (Agricultural Adjustment)

[Bulletin NSCP-1201, Supp. 2]

PART 706—NAVAL STORES CONSERVATION PROGRAM

PRACTICES DEFEATING PURPOSES OF PROGRAM

1. Section 706.903 (b) (1) is hereby amended, as follows:

Delete the sentence, which reads: "There may be withheld or required to be

refunded the amount earned under this program, if any, plus the amount paid under the 1945, 1946, and 1947 programs on the tracts or drifts in which such cutting occurs, or the total amount earned under this program, whichever amount is smaller," and substitute therefor: "There may be withheld or required to be refunded 3¢ per face for each face that was worked in 1945, 1946, or 1947 in the tracts or drifts in which such cutting occurs."

2. Section 706.903 (b) (3) is hereby amended, as follows:

Delete the sentence, which reads: "There may be withheld, or required to be refunded, the amount of the conservation payments made under all previous programs for all the working faces in the tract or drift, or the total payment under this program, whichever is smaller," and substitute therefor: "There may be withheld, or required to be refunded, 2¢ per face for each such working face in the tracts or drifts in which such installation occurs."

(49 Stat. 1148, 52 Stat. 746; 16 U. S. C. 590g to 590q)

Issued at Washington, D. C., this 21st day of May 1948.

[SEAL]

N. E. DODD,
Acting Secretary.

[F. R. Doc. 48-4738; Filed, May 26, 1948; 8:47 a. m.]

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 176—DOCUMENTARY REQUIREMENTS FOR ALIENS, EXCEPT SEAMEN AND AIRMEN, ENTERING THE UNITED STATES

PRIORITY OF QUOTA IMMIGRANTS

CROSS REFERENCE: For amendments to regulations of the State Department concerning documentary requirements for aliens entering the United States, see Title 22, Chapter I, Part 61, *infra*.

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Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Division of the Federal Register, the National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

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TITLE 20—EMPLOYEES' BENEFITS

Chapter II—Railroad Retirement Board

PART 208—ELIGIBILITY FOR AN ANNUITY
PART 237—INSURANCE ANNUITIES AND LUMP SUMS FOR SURVIVORS

MISCELLANEOUS AMENDMENTS

Pursuant to the general authority contained in section 10 of the act of June 24, 1937 (sec. 10; 50 Stat. 314; 45 U. S. C. 228j) §§ 208.5, 208.11 and 237.102 (c) of the regulations under such act are amended to read as set out below, and § 208.13 is repealed, (12 F. R. 859; 12 F. R. 1594; 12 F. R. 2017; 12 F. R. 3243 and 12 F. R. 6358). The amendments to §§ 208.5 and 237.102 (c) and the repealer of § 208.13 were adopted by Board Order 48-115, dated April 13, 1948, effective immediately, and the amendment to § 208.11 was adopted by Board Order 48-135, dated April 21, 1948. The amended sections read as follows:

1. Section 208.5 is amended to read as follows:

§ 208.5 *Current connection with the railroad industry.* For the purposes of this part, § 225.8 and Part 237 of this chapter, in determining whether an individual had a "current connection with the railroad industry", self-employment shall not be considered "regular employment". (For statutory provision see Part 237 of this chapter).

For such purposes "regular employment" shall mean full or part time service for remuneration by an individual in the employ of another on a continuing or recurring basis. An individual performing service for remuneration, whether or not under a contract, shall be deemed to be in the employ of another unless such service is performed as a part of his independently established trade, business or occupation; and in the absence of evidence to the contrary, an individual shall be presumed not to have been regularly employed in the interval between the end of any period of thirty consecutive calendar months during which he was in service as an employee in at least twelve calendar months and the month in which a retirement annuity began to accrue to him in accordance with Part 214 of this chapter, unless he was paid by one or more employers (other than an employer under the act) remuneration of \$200 or more in each of two consecutive calendar quarters wholly within such interval; or unless he was paid such remuneration of \$200 or more in the last quarter wholly within such interval and he continued in the same employment during the quarter in which his annuity began to accrue: *Provided, however*, That if an individual who was paid remuneration of \$200 or more in any quarter shows that the remuneration for such calendar quarter was earned in less than one-half of the calendar days therein, such calendar quarter shall not be counted as a quarter in which he was paid \$200 or more for the purposes of this section.

2. Section 208.11 is amended to read as follows:

§ 208.11 *Establishment of permanent disability for work in the applicant's "regular occupation."* An individual's physical or mental condition shall be deemed to be permanently disabling for work in his "regular occupation", whether or not he has been disqualified for such work by his employer, if, in accordance with the occupational disability standards established by the Board, he is physically or mentally unable to perform the duties of such occupation, and the facts of his physical or mental condition afford a reasonable basis for an inference that such condition is permanent. The cause of the disabling physical or mental condition is immaterial. If the employee's regular occupation is one with respect to which occupational disability standards have not been established by the Board, the occupational disability standards established by the Board for a reasonably comparable occupation in the railroad industry shall govern the determination of the individual's inability to work in his regular occupation; and in the absence of such comparable occupation, such determination shall be made by ascertaining whether under the practices generally prevailing in other industries having such occupation, the individual's physical or mental condition is a permanent disqualification for work in his regular occupation. The condition of permanent disability for work in the individual's regular occupation must be established in each particular case in the

manner and to the extent prescribed by the Board.

In the cases of general chairmen and other elected full time officers of railway labor organizations who serve in a representative capacity, the disability standards to be applied shall be those applicable to the position to which the individual in question holds seniority rights or from which he left to assume his position with the labor organization.

3. Paragraph (c) of § 237.102 is amended to read as follows:

§ 237.102 *Completely insured status.*

(c) *Current connection with the railroad industry.* A deceased employee had a current connection with the railroad industry at the time of his death if he had had a period of thirty consecutive calendar months which met certain requirements set out in the act. First of all, that period must have been before any retirement annuity began to accrue to the employee, or before the month in which he died, if that occurred first. Secondly, he must during that period have been in service as an employee in at least twelve calendar months. A third requirement must have been met if there was any interval between the end of the thirty-month period in question and the month in which a retirement annuity began to accrue to the employee, or the month in which he died, if that occurred first. In that interval the employee must not have been engaged in any regular employment other than employment for an employer; as here used, "regular employment" means full or part time service, for remuneration, by an individual in the employ of another on a continuing or recurring basis. For the purpose of determining the existence of a current connection, an employee who performed service for remuneration, whether or not under a contract, shall be deemed to have been in the employ of another unless such service was performed as a part of his independently established trade, business or occupation; and in the absence of evidence to the contrary an employee shall be presumed not to have been regularly employed in the interval between the end of the thirty-month period in question and the month in which a retirement annuity began to accrue to him, or the month in which he died if that occurred first, unless he was paid by one or more employers (other than an employer under the act) remuneration of \$200 or more in each of any two consecutive calendar quarters wholly within such interval; or unless he was paid such remuneration of \$200 or more in the last quarter wholly within such interval and he continued in the same employment during the quarter in which his annuity began to accrue or the quarter in which he died, as the case may be: *Provided, however*, That if an individual claiming benefits under this part on the basis of the insured status of such employee establishes that remuneration was earned by such employee in less than one-half of the calendar days in any calendar quarter, such calendar quarter shall not be counted as a quarter in which such employee was paid \$200 or more for the purposes of this paragraph.

Even though the deceased employee had no period of thirty consecutive calendar months which met the requirements discussed above, he may, nevertheless, have had, at the time of his death, a current connection with the railroad industry for the purposes of this part. This will be true if the employee was not fully insured under the Social Security Act, but met all the requirements (aside from that of current connection with the railroad industry) of a completely insured status under paragraph (d) of this section. It will also be true if the employee was neither fully insured nor currently insured under the Social Security Act, but met all the requirements (aside from that of current connection with the railroad industry) of a partially insured status under § 237.103. Finally, it will be true if the employee had no wage quarters of coverage.

(Sec. 10, 50 Stat. 314; 45 U. S. C. 228j)

Dated: May 20, 1948.

By Authority of the Board.

MARY B. LINKINS,
Secretary of the Board.

[F. R. Doc. 48-4744; Filed, May 26, 1948; 8:48 a. m.]

PART 335—SICKNESS BENEFITS AND MATERNITY BENEFITS

SUBPART C—DEATH OF EMPLOYEE

Pursuant to the general authority contained in section 12 of the act of June 25, 1948 (52 Stat. 1107; 45 U. S. C. 362 (1), Part 335 of the regulations under such act (12 F. R. 4667, 12 F. R. 5610, 12 F. R. 8441) is amended, by Board Order 48-113, dated April 6, 1948, by the addition, effective July 1, 1947, of Subpart C, Death of Employee, to read as follows:

SUBPART C—DEATH OF EMPLOYEE

Sec.

335.301 Statutory provisions.

335.302 Death of employee before filing of form.

SUBPART C—DEATH OF EMPLOYEE

§ 335.301 Statutory provisions.

Benefits accrued to an individual but not yet paid at death shall, upon certification by the Board, be paid, without necessity of filing further claims therefor, to the same individual or individuals to whom any death benefit that may be payable under the provisions of section 5 of the Railroad Retirement Act of 1937 or any accrued annuities under section 3 (f) of the Railroad Retirement Act of 1937 are paid; and in the event that no death benefit or accrued annuity is so paid, such benefits accrued under this act shall be paid as though this subsection had not been enacted. (Sec. 2 (g) of the act)

§ 335.302 *Death of employee before filing of form.* If an employee dies before the filing of any one or more of the forms which under the provisions of Subpart A or Subpart B of this part, are required to be filed by or in behalf of such employee, such form or forms may be filed by or in behalf of the individual or individuals to whom benefits accrued to such employee, but not yet paid at death, would be payable in accordance with the provisions of sec. 2 (g) of the act. Such form or forms shall be filed within the time prescribed in § 335.104 or § 335.204

and in such cases the word "employee" as last used in §§ 335.104 (b) and 335.204 (b) and (c), and as used in §§ 335.104 (d) (3) and 335.204 (e) (3), shall include the individual or individuals by or in behalf of whom the form is filed. (Sec. 12, 52 Stat. 1107; 45 U. S. C. 362 (1))

Dated: May 20, 1948.

By Authority of the Board.

MARY B. LINKINS,
Secretary of the Board.

[F. R. Doc. 48-4732; Filed, May 26, 1948;
8:46 a. m.]

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

[Department Reg. 108.69]

PART 61—VISAS: DOCUMENTARY REQUIREMENTS FOR ALIENS ENTERING THE UNITED STATES

PRIORITY OF QUOTA IMMIGRANTS

The following amendment to Part 61, Chapter I, Title 22, Code of Federal Regulations (Departmental Regulations 108.12, 108.34, 108.52, 108.56, and 108.59; 11 F. R. 8904, 14611, 12 F. R. 6501, 7998, 8327), is hereby prescribed:

Subdivision (ii), subparagraph (3), paragraph (a), of § 61.313 is amended by adding the following sentence:

§ 61.313 *Priority of quota immigrants.*
(a) * * *

(3) * * *
(ii) * * * Priority under the provisions of this subdivision shall not be accorded aliens in the second-priority nonpreference-quota category unless they file proper registration forms as intending immigrants at a consular office on or before December 31, 1948.

This regulation shall become effective on the date of its publication in the FEDERAL REGISTER. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C., Sup., 1003) relative to notice of proposed rule making and delayed effective date are inapplicable because this regulation involves foreign affairs functions.

(R. S. 161; sec. 24, 43 Stat. 166; 5 U. S. C. 22, 8 U. S. C. 222)

Issued on the 21st day of May 1948.

Approved: May 21, 1948.

[SEAL]

G. C. MARSHALL,
Secretary of State.

Recommended, so far as the provisions of the Immigration Act of 1924 are concerned, by:

TOM C. CLARK,
Attorney General.

[F. R. Doc. 48-4740; Filed, May 26, 1948;
8:48 a. m.]

TITLE 24—HOUSING CREDIT

Chapter V—Federal Housing Administration

PART 500—GENERAL

FIELD ORGANIZATION

Section 500.22 of Subpart C is amended effective May 7, 1948, by:

Deleting opposite "Massachusetts," Boston, and under the Column headed "Address", the following: "40 Broad Street", and substituting therefor the following: "Customs House".

(Sec. 1, 48 Stat. 1246; 12 U. S. C. 1702; Reorg. Plan No. 2 of 1947, 12 F. R. 4981)

[SEAL]

R. WINTON ELLIOTT,
Assistant Commissioner.

MAY 21, 1948.

[F. R. Doc. 48-4731; Filed, May 26, 1948;
8:55 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue, Department of the Treasury

Subchapter A—Income and Excess Profits Taxes

[T. D. 5616]

PART 29—INCOME TAX: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1941

FILING FINAL RETURN AND PAYING TAX OF DECEASED SPOUSE FOR WHOM JOINT RETURN MADE; EXTENSION OF TIME FOR CERTAIN TAXABLE YEARS ENDING IN 1948

PARAGRAPH 1. Section 29.53-1 of Regulations 111, as amended by Treasury Decision 5396, approved August 11, 1944 (26 CFR 29.53-1) is further amended by striking out paragraphs (d) and (e) and inserting in lieu thereof the following:

§ 29.53-1 *Time for filing returns.* * * *

(d) In the case of a final return of a decedent for a fractional part of a year, on or before March 15 next following the close of the calendar year in which occurred the death of the decedent, except as provided in paragraph (e).

(e) In the case of a final return for a fractional part of a year of a decedent who, at the moment preceding his death, was on a fiscal year basis and for whom for such year a joint return with his spouse is, on the basis of the facts appearing at the time of the decedent's death, permitted under section 51 (b), on or before the fifteenth day of the third month following the close of the twelve month period with which such fiscal year would have closed.

(f) In the case of any return for a fractional part of a year, the Commissioner may, upon a showing by the taxpayer of unusual circumstances, prescribe a later time for the filing of the return.

The operation of paragraphs (d) and (e) of this section in cases where joint returns are filed is illustrated by the examples set forth below. In these examples, "H" and "W" are individuals having the status of husband and wife under section 51 (b) (5) and neither (at anytime during the taxable year) is a non-resident alien.

Example (1): H and W make their returns on the calendar year basis. H dies in 1948. Under the rule in paragraph (d), the return of H for his short taxable period ending with the date of his death in 1948 is due on or before March 15, 1949. The return of W for the calendar year 1948 is, under section 53 (a) (1) due on the same date. A joint return for such taxable years of H

and W may be made as provided in section 51 (b).

Example (2): H and W make their returns on the basis of a fiscal year ending June 30. H dies on December 1, 1947. Under the facts at the time of the death of H, it would appear that a joint return could be filed under section 51 (b), as amended by the Revenue Act of 1948, for the fractional year of H and the fiscal year of W (ending on June 30, 1948). Accordingly, under the rule in paragraph (e), the return of H for his short taxable period ending December 1, 1947, is due on or before September 15, 1948. The return of W for her fiscal year is, under section 53 (a) (1), due on or before September 15, 1948.

Example (3): The facts in this example are the same as in Example (2), except that H died in January 1948 (instead of on December 1, 1947). In such a case, the due date for the returns of H and W, or their joint return, will be the same as in Example (2).

Example (4): The facts are the same as in Example (2), except that W, the surviving spouse, remarries (or changes her accounting period) in 1948, prior to June 30. For this reason a joint return cannot be made for H and W under section 51 (b). On the basis of the facts existing at the date of the death of H, however, it would appear that under section 51 (b), as amended by the Revenue Act of 1948, a joint return could be filed for H and W for the taxable year of each beginning on July 1, 1947. Accordingly, under the rule in paragraph (e), the time for filing the return of H is on or before September 15, 1948.

PAR. 2. An extension of time to July 15, 1948, is granted for the filing of a joint return under section 51 (b) for a taxable year ending in 1948 where the tax based on such return is determined in whole or in part under the law applicable to a taxable year beginning on January 1, 1948, if, without regard to this paragraph, the time for filing the return of either spouse (for whom the joint return is made) would expire before July 15, 1948. In such cases an extension of time to the date the joint return is filed or July 15, 1948, whichever is the earlier, is also granted for paying the tax on the basis of such joint return for the period for which the return is made. Taxpayers who take advantage of this extension of time will be charged with interest at the rate of 6 percent per annum on the amount of tax due from the original due date until the tax is paid.

PAR. 3. Because of the application of section 51 (b), as amended by the Revenue Act of 1948, to taxable years beginning prior to the enactment of the act, delay in the application of the above regulations will adversely affect the opportunity of certain taxpayers to avail themselves of the privilege of filing joint returns. It is therefore found impracticable to issue this Treasury decision with notice and public procedure thereon under section 4 (a) and (b) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4 (c) of said act.

PAR. 4. This Treasury decision shall be effective upon its filing for publication in the FEDERAL REGISTER.

This Treasury decision is issued under the authority contained in sections 62 and 3791 of the Internal Revenue

Code (53 Stat. 32, 467; 26 U. S. C. 62, 3791).

[SEAL] GEO. J. SCHOENEMAN,
Commissioner of Internal Revenue.

Approved: May 20, 1948.

A. L. M. WIGGINS,
Acting Secretary of the Treasury.

[F. R. Doc. 48-4743; Filed, May 26, 1948;
8:48 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VI—Office of Selective Service Records

[Amdt. 12]

PART 606—GENERAL ADMINISTRATION

SUPPLYING INFORMATION FROM RECORDS

Office of Selective Service Records Regulations, First Edition, are hereby amended in the following respect:

1. Amend subparagraph (6) and add subparagraph (17) to paragraph (b) of § 606.14 to read as follows:

§ 606.14 *Supplying information to Federal agencies and officials.* * * *

(b)

(6) *United States Civil Service Commission.* The United States Civil Service Commission may obtain such information upon the request of (i) a Commissioner, (ii) a Director or a Deputy Director of a Civil Service Commission Region, (iii) a Manager of a Civil Service Commission Branch Regional Office, (iv) a Veterans' Federal Employment Representative, (v) a Principal Civil Service Investigator, (vi) a Civil Service Investigator, or (vii) the Head Liaison Officer or a Liaison Officer, Veterans' Service Section.

(17) *General Accounting Office.* The General Accounting Office may obtain such information upon the request of the Assistant Chief of the Claims Division. (Pub. Law 26, 80th Cong.; 61 Stat. 31)

2. Amend subparagraphs (5), (27), (31), (50), and (51) of paragraph (b) of § 606.15 to read as follows:

§ 606.15 *Supplying information to officials and agencies of States, the District of Columbia, Territories and possessions of the United States.* * * *

(b) * * *

(5) *State of California.* The officials of the State of California and its subdivisions authorized to obtain such information are (i) the Adjutant General, (ii) the Director and the Deputy Director, Department of Veterans' Affairs, (iii) the Chairman, Employment Stabilization Commission, and (iv) the Chief of the Adult Division, the Director of Supervision, the Director of Investigations, Probation Officers, and Deputy Probation Officers, Los Angeles County Probation Office.

(27) *State of Montana.* The officials of the State of Montana authorized to obtain such information are (i) the Adjutant General, (ii) the Chairman and the Deputy Chairman, Unemployment Compensation Commission, (iii) the State Service Officer and Service Officers, Veterans' Welfare Commission, (iv) the Director, the Supervisor of Guidance Training, and Placement and Rehabilitation Agents, Bureau of Vocational Rehabilitation, and (v) the Director of the Department of Public Welfare.

(31) *State of New Jersey.* The officials of the State of New Jersey authorized to obtain such information are (i) the Adjutant General, (ii) the Chief of Staff and the Deputy Chief of Staff, Office of the Adjutant General, Department of Defense, (iii) the Executive Director, the Director of the Unemployment Compensation Division, and the Director of the Employment Service Division, Unemployment Compensation Commission, (iv) the Superintendent, Office of State Police, (v) the Deputy Commissioner in Charge of Correction and Parole, the Assistant Director of the Parole Division,

the Principal Keeper of the New Jersey State Prison, and the Superintendents of Prison Farms, Reformatories, and State Homes, State Department of Institutions and Agencies, (vi) the Director, Division of Veterans' Services, Department of Economic Development, (vii) the Commissioner, Department of Labor, (viii) the Commissioner, Motor Vehicle Department, (ix) the President, and the Director of the Division of Administrative Services, State Civil Service Commission, and (x) the Chairman-Director, Rehabilitation Commission for Physically Handicapped Persons.

(50) *State of Washington.* The officials of the State of Washington authorized to obtain such information are (i) the Adjutant General, (ii) the Assistant Personnel Officer of the Adjutant General's Office, (iii) the Commissioner, Employment Security Department, (iv) the Chief, Division of Parole and Probation, (v) the Director, Veterans' Rehabilitation Council, (vi) the Director, and the County Welfare Administrators, Department of Public Welfare, and (vii) the Director of the Department of Health.

(51) *State of West Virginia.* The officials of the State of West Virginia authorized to obtain such information are (i) the Adjutant General, (ii) the Director, Department of Unemployment Compensation, and (iii) the Director, Department of Veterans' Affairs.

(Pub. Law 26, 80th Cong.; 61 Stat. 31)

The foregoing amendment to the Office of Selective Service Records Regulations shall be effective immediately upon the filing hereof with the Division of the Federal Register.

LEWIS B. HERSHEY,
Director.

MAY 21, 1948.

[F. R. Doc. 48-4736; Filed, May 26, 1948;
8:47 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Ch. IX]

[Docket AO 187]

HANDLING OF POTATOES IN WYOMING AND WESTERN NEBRASKA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the rules of practice and procedure governing proceedings to formulate marketing agreements and orders, as amended (7 CFR and Supps., 900.1 et seq.; 11 F. R. 7737; 12 F. R. 1159, 4904), a public hearing was held at Scottsbluff, Nebraska, on August 25-26, 1947, after a notice thereof which

was issued on August 5, 1947 (12 F. R. 5396), upon a proposed marketing agreement and order regulating the handling of potatoes grown in certain specified counties in Western Nebraska and in Wyoming.

Upon the basis of the evidence introduced at the aforesaid hearing and the record thereof, the Acting Assistant Administrator, Production and Marketing Administration, on April 22, 1948, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of filing of such recommended decision, affording opportunity to file written exceptions thereto, was published in the FEDERAL REGISTER (13 F. R. 2266). No exceptions to the recommended decision have been filed.

The material issues and the findings and conclusions of the recommended de-

cisions set forth in the FEDERAL REGISTER (13 F. R. 2266; F. R. Doc. 48-3726) are hereby approved and adopted as the material issues and the findings and conclusions of this decision as if set forth in full herein.

It is hereby ordered, That, in view of the aforesaid finding and conclusion that a marketing agreement should not be entered into and an order should not be issued for regulating the handling of Irish potatoes grown in Western Nebraska and in the State of Wyoming, all this decision be published in the FEDERAL REGISTER and that there be no further action in these proceedings.

Issued at Washington, D. C., this 21st day of May 1948.

[SEAL] N. E. DODD,
Acting Secretary of Agriculture.

[F. R. Doc. 48-4739; Filed, May 26, 1948;
8:47 a. m.]

[7 CFR, Part 932]

HANDLING OF MILK IN FORT WAYNE,
IND., MILK MARKETING AREADECISION WITH RESPECT TO A PROPOSED
MARKETING AGREEMENT AND TO PROPOSED
AMENDMENTS TO ORDER, AS AMENDED

Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR, Supps., 900.1 et seq.; 12 F. R. 1159, 4904), a public hearing was held at Fort Wayne, Indiana, on April 16, 1948, pursuant to notice thereof published in the FEDERAL REGISTER on April 10, 1948 (13 F. R. 1954) upon certain proposed amendments to the tentative marketing agreement heretofore approved by the Secretary of Agriculture and to the order, as amended, regulating the handling of milk in the Fort Wayne, Indiana, milk marketing area.

Preliminary statement. The proposed amendments upon which the hearing was held were submitted by the Wayne Cooperative Milk Producers, Inc., of Fort Wayne.

The material issues presented on the record of hearing were:

(1) The level of the Class I and Class II price differentials over basic prices for the months of May, June, July, August, and September, 1948; and

(2) Whether the facts presented on the record warrant the omission of a recommended decision and exceptions thereto.

The following findings and conclusions on the material issues are based upon the evidence introduced at the hearing and the record thereof:

Findings and conclusions. (1) For July, August, and September, 1948 the differentials to be added to the basic formula price should be established at \$0.90 per hundredweight for Class I milk and at \$0.65 per hundredweight for Class II milk.

The record shows conditions which seriously threaten the milk supply of the Fort Wayne market for future months of 1948. The most important factor entering into this situation is the especially active competition for producers from other near-by markets.

With respect to competition for milk supplies, the situation was shown to be quite critical. Markets east of Fort Wayne, including the Federal order markets of Cleveland and Dayton-Springfield, have reached into the Fort Wayne milkshed in an effort to secure additional supplies, and producers have been actively solicited at prices considerably higher than the Fort Wayne blend prices. The blend price of the Cleveland market on a 4 percent basis for January was 45 cents per hundred pounds above the Fort Wayne blend price for January, and 65 cents above for February; the Dayton-Springfield blend price was 56 cents above the Fort Wayne blend price for January and 50 cents above for February. It was testified at the hearing that Fort Wayne producers were offered the blend prices

for these two markets for milk delivered to plants so located that their hauling charges would equal or be less than those to Fort Wayne, and that producers had left the Fort Wayne market for these offers.

Class prices in these Federal order markets are also governed by basic formula prices which are very similar to those of the Fort Wayne order and may be expected to perform in a like manner; the differentials added to the basic formula price are at higher levels, however, and evidence at the hearing indicated a substantial prospect that seasonal decline in the level of such differentials might be eliminated from the orders for 1948. For January, February, and March, 1948, the Class I prices of the Cleveland market averaged 47 cents more than those of the Fort Wayne market, and Dayton-Springfield Class I prices exceeded Fort Wayne Class I prices by an average of 39.7 cents. For July, August, and September, 1947, Cleveland Class I prices averaged 23.6 cents more than those for Fort Wayne, while for Dayton-Springfield Class I prices averaged almost 8 cents less than for Fort Wayne. The importance of maintaining a proper relationship between the Class I prices of these three markets was evident from the record.

In addition to the competition from other Federal order fluid milk markets competition from markets which are not normally considered to be competitors for inspected milk was shown to be active. Plants in the milkshed which are normally considered as outlets for manufacturing milk were shown to be paying approximately the Fort Wayne blend price, plus premiums for milk coolers and for volume of shipments, without requiring the rigorous inspection necessary for farmers to maintain their status as Grade A producers on the Fort Wayne market. Local fluid milk markets within the milkshed were also shown to have recently adopted ordinances requiring Grade A producers, and to be attempting to attract Fort Wayne producers.

Although an aggressive procurement policy in 1947 by cooperative associations and handlers in the Fort Wayne market resulted in substantial increases in supplies of producer milk and in producer numbers over the preceding year, supplies of producer milk in November, December, 1947, and January 1948 were inadequate to the extent that in excess of 300,000 pounds of other source milk was used monthly in Class I and Class II milk. While the shortage of producer milk was not as substantial as in the past two winter seasons, it was sufficient to indicate the need for additional supplies in the short season in order that all Class I and II requirements of the market might be supplied with milk meeting requirements of the health authorities. These authorities have notified the industry that use of other source milk will hereafter not be permitted for Class I and II uses. The Fort Wayne market is one that should have an adequate year round supply of inspected milk, as the other source milk is produced locally, but does not meet inspection standards.

During the past several months the record shows that little net increase has

been made in producer numbers, and that production per farm has decreased from that of the comparable month a year ago. Although there were 220 more producers delivering milk to the market in March 1948 than in March 1947, the net increase since September 1947 was 44 producers, with an increase of only 9 producers from December to March. Further, the principal cooperative association supplying the market showed that it had been necessary to add 96 new producers since October in order to show a net gain of 10 producers in their supply, since 86 had left the market in that period. This represents a turnover of 12.1% during six months with an increase of only 1.6%. Production per farm per day during the short season has been consistently below that of a year ago, ranging from 1.3 to 7.3%, thus requiring larger numbers of producers for a given total production.

Under these circumstances it appears evident that unless prompt action is taken to assure producers more favorable returns the supply of producer milk will be considerably short of requirements during the late summer and early fall months of 1948. Producers proposed that the differentials over basic formula prices for Class I and Class II milk be restored to the short season level (Class I, 90 cents; Class II, 65 cents) for the period from May 1 through September 30, 1948, at which time these differentials will again become effective under the present order. Presently, the order provides differentials of 60 cents for Class I milk in May and June (April, also) and of 75 cents for July, August, and September, with Class II differentials of 35 cents and 50 cents for like periods.

Both producers and handlers testified that it was vitally necessary that producers be assured at the earliest possible date of the increases proposed for July, August, and September, in order to retain producer milk now available for the Fort Wayne market. These increases (15 cents per hundredweight in Class I and Class II prices) do not fully offset the differences that have existed between Fort Wayne prices and competitive prices, but should assist materially in maintaining an adequate supply of producer milk for the Fort Wayne market. The proposal to maintain the short season differential for the flush production months of May and June was not actively supported on the record by its proponents; they indicated belief that the greater seasonal variation in prices resulting from the current differentials for these months might be helpful in leveling out seasonality of production. The action taken herein is restricted to July, August, and September of 1948 on the basis of the proposals noticed for hearing.

(2) The due and timely execution of the functions of the Secretary of Agriculture under the Act imperatively and unavoidably requires the omission of a recommended decision by the Assistant Administrator, Production and Marketing Administration, and the filing of exceptions thereto.

It is imperative that producers be given definite assurance without delay of the adjustment in differentials provided herein if such action is to be effective.

While the effective date of such adjustment is not until July 1, 1948, all parties at interest were in agreement that immediate announcement was necessary, and the record shows that these parties waived the filing of briefs, a recommended decision and the opportunity to file exceptions thereto in the interest of prompt announcement to producers of adjusted differentials for July, August, and September, 1948. In the circumstances, the omission of the recommended decision and exceptions thereto is imperative and unavoidable.

(3) General:

(a) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, regulate the handling of milk in the same manner and are applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which hearings have been held; and

(c) The prices calculated to give milk produced for sale in the said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to section 2 and section 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for such milk, and the minimum prices specified in the proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled "Marketing Agreement Regulating the Handling of Milk in the Fort Wayne, Indiana, Marketing Area" and "Order Amending the Order, as Amended, Regulating the Handling of Milk in the Fort Wayne, Indiana, Marketing Area," which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the attached order, amending the order, as amended, which will be published with the decision.

This decision filed at Washington, D. C., this 25th day of May 1948.

[SEAL] N. E. DODD,
Acting Secretary of Agriculture.

Order, Amending the Order, as Amended, Regulating the Handling of Milk in the Fort Wayne, Indiana, Marketing Area

§ 932.0 Findings and determinations—(a) Findings upon the basis of the hearing record. Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure covering the formulation of marketing agreements and orders (7 CFR, Supps. 900.1 et seq.; 11 F. R. 7737, 12 F. R. 1159, 4904), a public hearing was held upon certain proposed amendments to the tentatively approved marketing agreement and to the order, as amended, regulating the handling of milk in the Fort Wayne, Indiana, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions of said order, as amended, and as hereby further amended, will tend to effectuate the declared policy of the act;

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to section 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which hearings have been held.

The foregoing findings are supplementary and in addition to the findings made in connection with the issuance of the aforesaid order and the findings made in connection with the issuance of each of the previously issued amendments thereto; and all of said previous findings are hereby ratified and affirmed except insofar as such findings may be in conflict with the findings set forth herein.

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Fort Wayne, Indiana, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and the

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and orders have been met.

aforesaid order, as amended, is hereby further amended as follows:

1. In § 932.5 (b) insert the following immediately after the table appearing therein: "Provided, That for the delivery periods of July, August, and September 1948 the amount to be added to the basic formula price shall be \$0.90."

2. In § 932.5 (c) insert the following immediately after the table appearing therein: "Provided, That for the delivery periods of July, August, and September, 1948, the amount to be added to the basic formula price shall be \$0.65."

[F. R. Doc. 48-4756; Filed, May 26, 1948; 9:01 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR, Part 691]

PEARL BUTTON INDUSTRY IN PUERTO RICO

MINIMUM WAGE RECOMMENDATION OF SPECIAL INDUSTRY COMMITTEE NO. 5

Pursuant to the Administrative Procedure Act (60 Stat. 237; 5 U. S. C., Supp., 1001), and the rules of practice governing this proceeding (12 F. R. 7890, 7891), notice is hereby given of the decision of the Administrator of the Wage and Hour Division, United States Department of Labor, with respect to the recommendation of Special Industry Committee No. 5 for Puerto Rico for a minimum wage rate in the pearl button industry in Puerto Rico, and of the wage order which he proposes to issue pursuant thereto. The decision¹ and proposed wage order are set forth below. Interested parties may submit written exceptions thereto to the Administrator of the Wage and Hour Division, United States Department of Labor, Washington, D. C., within 15 days from publication of this notice in the FEDERAL REGISTER. Exceptions should be submitted in quadruplicate, and should include supporting reasons for any exceptions presented.

Signed at Washington, D. C., this 13th day of May 1948.

WM. R. McCOMB,
Administrator,
Wage and Hour Division.

Whereas on June 16, 1947, pursuant to section 5 (e) of the Fair Labor Standards Act of 1938, hereinafter called the act, I, as Administrator of the Wage and Hour Division of the United States Department of Labor, by Administrative Order No. 367, appointed Special Industry Committee No. 5 for Puerto Rico, hereinafter called the Committee, and directed the Committee to proceed first to investigate conditions and to recommend to me minimum wage rates for employees in the sugar manufacturing industry in Puerto Rico, as defined in Administrative Order No. 367, and thereafter to investigate conditions and to recommend to me minimum wage rates for employees in other industries enumerated and de-

¹ Filed as part of the original document. Copies are available on request at the Wage and Hour Division, Department of Labor, Washington, D. C.

PROPOSED RULE MAKING

fined in the order, as amended by Administrative Order No. 369, including the pearl button industry in Puerto Rico, in accordance with the provisions of the act and rules and regulations promulgated thereunder; and

Whereas the Committee for purposes of investigating conditions and recommending minimum wage rates for employees in the pearl button industry in Puerto Rico, included three disinterested persons representing the public, a like number representing employers, and a like number representing employees in the pearl button industry in Puerto Rico, and was composed of residents of Puerto Rico and of the United States outside of Puerto Rico; and

Whereas the Committee, after investigating economic and competitive conditions in the pearl button industry in Puerto Rico, filed with me a report containing its recommendation for a minimum wage rate of 37½ cents per hour to be paid employees in the industry who are engaged in commerce or in the production of goods for commerce; and

Whereas pursuant to notice published in the FEDERAL REGISTER on January 8, 1948, and circulated to all interested persons, a public hearing upon the Committee's recommendation was held before Hearing Examiner E. West Parkinson in Washington, D. C., on February 4, 1948, at which all interested persons were given an opportunity to be heard; and

Whereas upon reviewing all the evidence adduced in this proceeding and

after giving consideration to the provisions of the act, particularly sections 5 and 8 thereof, I have concluded that the recommendation of the Committee for a minimum wage rate in the pearl button industry in Puerto Rico, as defined, was made in accordance with law, is supported by the evidence adduced at the hearing, and taking into consideration the same factors as are required to be considered by the Committee, will carry out the purposes of sections 5 and 8 of the act; and

Whereas I have set forth my decision in a document entitled "Findings and Opinion of the Administrator in the Matter of the Recommendation of Special Industry Committee No. 5 for Puerto Rico for a Minimum Wage Rate in the Pearl Button Industry in Puerto Rico," a copy of which may be had upon request addressed to the Wage and Hour Division, United States Department of Labor, Washington 25, D. C.;

Now, therefore, *It is ordered, That:*

Sec.

691.1 Approval of recommendation of Industry Committee.

691.2 Wage rate.

691.3 Notices of order.

691.4 Definition of the pearl button industry in Puerto Rico.

AUTHORITY: §§ 691.1 to 691.4, inclusive, issued under secs. 5 (e), 8, 52 Stat. 1064, sec. 3 (c), 54 Stat. 615; 29 U. S. C. 205 (e), 208.

§ 691.1 *Approval of recommendation of Industry Committee.* The Commit-

tee's recommendation is hereby approved.

§ 691.2 *Wage rate.* Wages at a rate of not less than 37½ cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the pearl button industry in Puerto Rico who is engaged in commerce or in the production of goods for commerce.

§ 691.3 *Notices of order.* Every employer employing any employees so engaged in commerce or in the production of goods for commerce in the pearl button industry in Puerto Rico shall post and keep posted in a conspicuous place in each department of his establishment where such employees are working such notices of this order as shall be prescribed from time to time by the Wage and Hour Division of the United States Department of Labor and shall give such other notice as the Division may prescribe.

§ 691.4 *Definition of the pearl button industry in Puerto Rico.* The pearl button industry in Puerto Rico, to which this order shall apply, is hereby defined as follows: The manufacture of ocean pearl and other natural shell buttons.

Effective date. This wage order shall become effective July 19, 1948.

Signed at Washington, D. C., this 13th day of May 1948.

[F. R. Doc. 48-4697; Filed, May 26, 1948; 8:51 a. m.]

NOTICES

DEPARTMENT OF COMMERCE

Office of the Secretary

PROPOSED VOLUNTARY PLAN FOR ALLOCATION OF STEEL PRODUCTS FOR WARM AIR HEATING EQUIPMENT FOR RESIDENTIAL HOUSING

NOTICE OF PUBLIC HEARING

In order to carry out the requirements of Executive Order 9919 (13 F. R. 59), and acting under the authority vested in me by said Executive order,

Notice is hereby given that a public hearing will be held on Tuesday, the 8th day of June, 1948, at 10:00 a. m., d. s. t., in the Auditorium on the street floor of the Department of Commerce building, 14th Street, between E Street and Constitution Avenue, in the city of Washington, D. C., for the purpose of affording to industry, labor and the public generally an opportunity to present their views with respect to the proposed voluntary plan, under Public Law 395, 80th Congress, for the allocation of steel products for warm air heating equipment for residential housing, of which plan a draft is set forth in Appendix A hereto (subject to further revisions at and subsequent to the public hearing).

The proposed plan has been formulated after consulting with representatives of the various industries involved.

Any person desiring to participate in said public hearing should file a written notice of appearance with the Director of the Office of Industry Cooperation, Room 5847, Department of Commerce Building, Washington 25, D. C., not later than 5 p. m., d. s. t., on Thursday, the 3d day of June 1948. Persons desiring to present written statements or memoranda should submit them at the hearing.

[SEAL]

CHARLES SAWYER,
Secretary of Commerce.

APPENDIX A

Proposed voluntary plan for allocation of steel products for warm air heating equipment for residential housing.

1. The steel producers participating herein will, during the period beginning July 1, 1948 and ending February 28, 1949, severally make steel products available, or will cause such products to be made available (out of

the production of their own mills or the mills of their subsidiaries or affiliates) to manufacturers of warm air furnaces (including jackets and casings for warm air furnaces), registers and grilles, furnace blowers, and furnace pipe, fittings and duct work in accordance with the provisions of paragraph 2 hereof.

2. (a) The quantities of each type of such steel products so to be made available by the several steel producers shall, except as may be otherwise specified in any such steel producer's acceptance hereof, be such as the Secretary of Commerce (after consultation with the Steel Producers Advisory Task Committee of the Office of Industry Cooperation of the Department of Commerce) determines to be fair and equitable, in order to accomplish, as nearly as may be, the supply of steel products, on an average monthly basis, in the approximate quantities and to the several classes of manufacturers specified in the following schedule:

Type	To manufacturers of—				
	Warm air furnaces (including jackets and casings)	Registers and grilles	Furnace blowers	Furnace pipe fittings and duct work	Total (tons)
Hot rolled sheets and strip.....	42,000	2,500	1,000	1,500	47,000
Cold rolled sheets and strip.....	68,000	14,300	6,000		88,300
Galvanized and coated sheets.....	15,000	200	2,000	59,500	76,700
Total.....	125,000	17,000	9,000	61,000	212,000

Each steel producer participating herein will, however, upon request of the Secretary of Commerce, give consideration to making such steel products available for the purposes of this plan in amounts additional to the amounts provided for in its acceptance of this plan.

(b) Such steel products will be made available under such contractual arrangements as may be made by the respective steel producers or their subsidiaries and affiliates with the respective manufacturers, and no request or authorization will be made by the Department of Commerce relating to the allocation of orders or customers or to the delivery of steel products or to the allocation of business among such manufacturers nor will any request or authorization be made to such steel producers for any limitation or restriction on the production or marketing of any such steel products. Nothing herein contained shall be construed as authorizing or approving any fixing of prices, and the participation herein of any steel producer shall not affect the prices or terms and conditions on which any such steel products as are made available are actually sold and delivered.

(c) Each steel producer participating herein will make available or cause to be made available only those steel products which are within the type and size limitations of the mill or mills which it may select for the production of such products and the quantities of steel products which it will make available or cause to be made available in any month during said period may be reduced, or at its option the delivery thereof may be postponed in direct proportion to any production losses which it or such subsidiary or affiliate shall sustain during any such month due to causes beyond its or their control.

(d) Each such steel producer will, if requested by the Office of Industry Cooperation of the Department of Commerce (subject to the approval of the Bureau of the Budget under the Federal Reports Act of 1942) report to the Office of Industry Cooperation the total quantities of the several types of steel products shipped pursuant to such purchase orders, in any monthly period or periods during the operation of this plan.

3. (a) Each manufacturer of warm air heating equipment becoming a participant herein will forthwith submit to the Office of Industry Cooperation of the Department of Commerce (unless previously submitted) a schedule showing by plants the quantity and types of warm air heating equipment scheduled for production by it, monthly, during the period July 1, 1948, to December 31, 1948, and estimates of the quantities of steel products required therefor. Such schedules and estimates shall be similarly furnished from time to time thereafter upon request of the Office of Industry Cooperation. The quantities and types of steel products to be made available hereunder to the several participating manufacturers, within the schedule set forth in paragraph 2 (a) hereof, shall be initially determined, for the third and fourth calendar quarters of 1948 and for the period of January 1 to February 28, 1949, by the Secretary of Commerce after consultation with the Warm Air Heating Industry Task Committee, subject to such revision, if any, from time to time, as may be deemed necessary by the Secretary of Commerce after consultation with such Committee. For the purposes of such determination, consideration will be given to past production records, plant capacity, and inventories of finished products on hand.

(b) By participation herein, the several manufacturers of warm air heating equipment shall be obligated to use all steel products made available hereunder solely to the production of warm air furnaces, including jackets and casings for warm air furnaces, registers and grilles, furnace blowers and/or

furnace pipe, fittings and duct work, as the case may be, suitable for use in the construction, maintenance or repair of residential housing; not to resell or transfer any thereof (except to such subsidiary, affiliate or sub-contractor as may be designated by any such manufacturer for the fabrication of such end products) in the form received by such manufacturers; and not to build up inventory of such steel products beyond current needs for the purposes hereof. Each purchase order for steel products to be made available hereunder shall bear the following certification of the manufacturer placing such purchase order:

We hereby certify and agree that the steel products specified in this order will be used for the production of _____ and that this order is placed under Section 3 (b) of the Voluntary Plan authorized by Public Law 395, for Allocation of Steel Products for Warm Air Heating Equipment for Residential Housing.

(c) Each warm air heating equipment manufacturer, participating herein, shall furnish reports (subject to the approval of the Bureau of the Budget under the Federal Reports Act of 1942) on forms furnished by the Secretary of Commerce, from time to time, as the Secretary of Commerce may deem desirable or necessary showing the total quantities and types of steel products received from all sources and the quantities and types of warm air heating equipment produced, and other relevant information.

4. After approval hereof by the Attorney General and by the Secretary of Commerce, and after requests for compliance herewith shall have been made of steel producers and manufacturers of warm air heating equipment by the Secretary of Commerce, any such steel producer or any such manufacturer of warm air heating equipment may become a participant herein by advising the Secretary of Commerce, in writing, of its acceptance of such request. Such requests for compliance will be effective for the purpose of granting certain immunity from the anti-trust laws and the Federal Trade Commission Act, as provided in section 2 (c) of Public Law 395, only with respect to such steel producers and such manufacturers of warm air heating equipment as notify the Secretary of Commerce in writing that they will comply with such requests.

5. This plan shall become effective upon the date of its final approval by the Secretary of Commerce and shall cease to be effective at the close of business on February 28, 1949, or at such earlier time as may be determined by the Secretary of Commerce.

6. Any such steel producer or manufacturer of warm air heating equipment may withdraw from this plan by giving not less than sixty days' written notice of its intention so to do to the Secretary of Commerce.

[F. R. Doc. 48-4801; Filed, May 26, 1948; 9:09 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-556]

UNITED GAS PIPE LINE CO.

NOTICE OF ORDER DISMISSING APPLICATION

MAY 21, 1948.

Notice is hereby given that, on May 20, 1948, the Federal Power Commission issued its order entered May 18, 1948, dismissing application for a certificate of public convenience and necessity in the above-designated matter.

[SEAL]

LEON M. FUQUAY,
Secretary.

[F. R. Doc. 48-4725; Filed, May 26, 1948; 8:45 a. m.]

[Docket No. G-1004]

COLORADO INTERSTATE GAS CO.

NOTICE OF APPLICATION

MAY 21, 1948.

Notice is hereby given that on February 17, 1948, Colorado Interstate Gas Company (Applicant), a Delaware corporation, having its principal place of business at Colorado Springs, Colorado, filed with the Commission an application, as supplemented on April 1, 1948, under section 8 of the Natural Gas Act, as amended, and under the Uniform System of Accounts Prescribed for Natural Gas Companies, for authority to reclassify and adjust Applicant's Depreciation and Amortization Reserves, as of December 31, 1946, to its earned surplus account.

Applicant recites that "In the Matter of Colorado Interstate Gas Company et al.," Docket Nos. G-124, G-118 and G-121, order of March 18, 1942, Opinion No. 73 (3 FPC 32), the Federal Power Commission found the true and correct depreciation and amortization reserves, as of December 31, 1939, to be less than that stated in Applicant's books. Applicant further recites that by order of the Commission of October 7, 1947, Applicant was authorized to dispose of the amounts classified in Account 107, Gas Plant Adjustments, by charges to its reserves for depreciation and amortization. Applicant states that after the aforesaid charges to the depreciation reserves, the excess accrual in the said reserves amounted to \$941,652.76.

Applicant further states that pending the final determination of the rate proceedings above referred to, Applicant continued to make accruals to its depreciation and amortization reserves at the rates previously used, though in excess of those found by the Commission to be the correct rates. Such excess accruals for depreciation were made for the years 1940 through 1946, inclusive, and amount to \$1,031,333.87. Applicant states for the year 1947, it has used the correct rates as found by the Commission in said Opinion No. 73; and Applicant states it will continue to use these rates in the future, subject to such modification as hereafter may be desired or required in the light of experience. Applicant states that the excess accruals for amortization reserves were made for the year 1940 through 1945, inclusive, and amount to \$705,882.24.

The total amount of excess accruals to Applicant's depreciation and amortization reserves is \$2,678,868.87, which amount Applicant seeks to credit to its earned surplus account.

Any interested State commission is requested to notify the Federal Power Commission whether the application should be considered under the cooperative provisions of Rule 37 of the Commission's rules of practice and procedure (18 CFR 1.37) and, if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the creation of a board, or a joint or concurrent hearing, together with reasons for such request.

The application of Colorado Interstate Gas Company is on file with the Commission and is open to public inspection.

NOTICES

Any person desiring to be heard or to make any protest with reference to the application shall file with the Federal Power Commission, Washington 25, D. C., not later than 15 days from the date of publication of this notice in the FEDERAL REGISTER, a petition to intervene or protest. Such petition or protest shall conform to the requirements of Rule 8 or 10, whichever is applicable, of the rules of practice and procedure (18 CFR 1.8 and 1.10).

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 48-4742; Filed, May 26, 1948;
8:48 a. m.]

[Docket No. G-1045]

SOUTHERN CALIFORNIA GAS CO. AND SOUTHERN COUNTIES GAS CO. OF CALIFORNIA

NOTICE OF APPLICATION

MAY 21, 1948.

Notice is hereby given that on May 3, 1948, an application was filed with the Federal Power Commission by Southern California Gas Company and Southern Counties Gas Company of California (Applicants), both being California corporations with their principal place of business at 810 South Flower Street, Los Angeles, California, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of a 30-inch lateral pipe line of approximately 65,000 feet in length and appurtenant facilities for the transportation and sale of natural gas in interstate commerce, such line to connect with Applicants' existing pipe line system near Rivera, California and extending northward toward the City of Pasadena, California, for the purpose of moving sufficient volumes of natural gas from the Los Angeles city area to supply expected increased demands for natural gas in the general northeasterly portion of the Los Angeles metropolitan area, which embraces East Los Angeles, Pasadena, South Pasadena, Alhambra, San Marino, San Gabriel, Monterey Park, El Monte, Sierra Madre, Arcadia, Monrovia, and Montebello.

The estimated natural gas requirements to be met from the proposed lateral pipe line on an average winter day in 1953 will approximate 182 million cu. ft. with a maximum hourly demand of 12¾ million cu. ft.

The facilities to be located between Rivera and Garvey are to be owned by Southern California Gas Company (75%) and Southern Counties Gas Company of California (25%) as tenants in common, and the facilities to be located north of Garvey are to be owned by Southern California Gas Company. It is estimated that the total cost of the facilities will be \$1,537,000.

Applicants state that they expect to begin construction about July 1, 1948, and to complete the construction by November 1, 1948.

Any interested State commission is requested to notify the Federal Power Com-

mission whether the application should be considered under the cooperative provisions of Rule 37 of the Commission's rules of practice and procedure (18 CFR 1.37) and, if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the creation of a board, or a joint or concurrent hearing, together with reasons for such request.

The application of Southern California Gas Company and Southern Counties Gas Company of California is on file with the Commission and is open to public inspection. Any person desiring to be heard or to make any protest with reference to the application shall file with the Federal Power Commission, Washington 25, D. C., not later than 15 days from date of publication of this notice in the FEDERAL REGISTER, a petition to intervene or protest. Such petition or protest shall conform to the requirements of Rule 8 or 10, whichever is applicable, of the rules of practice and procedure (18 CFR 1.8 or 1.10).

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 48-4741; Filed, May 26, 1948;
8:48 a. m.]

[Docket No. ID-785]

WILLIAM WEBSTER

NOTICE OF AUTHORIZATION PURSUANT TO SECTION 305 (b) OF THE FEDERAL POWER ACT

MAY 21, 1948.

Notice is hereby given that, on May 20, 1948, the Federal Power Commission issued its order entered May 18, 1948, in the above-designated matter, authorizing Applicant to hold certain positions in The Narragansett Electric Company, et al., pursuant to section 305 (b) of the Federal Power Act.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 48-4726; Filed, May 26, 1948;
8:45 a. m.]

[Docket No. ID-957]

WILLIAM R. BELL

NOTICE OF AUTHORIZATION PURSUANT TO SECTION 305 (b) OF THE FEDERAL POWER ACT

MAY 21, 1948.

Notice is hereby given that, on May 20, 1948, the Federal Power Commission issued its order entered May 18, 1948, in the above-designated matter, authorizing Applicant to hold a certain position in the New England Power Company, pursuant to section 305 (b) of the Federal Power Act.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 48-4727; Filed, May 26, 1948;
8:45 a. m.]

[Project No. 233]

PACIFIC GAS AND ELECTRIC CO.

NOTICE OF ORDER MODIFYING WATER RELEASES FOR FISHLIFE IN PIT RIVER

MAY 21, 1948.

Notice is hereby given that, on May 20, 1948, the Federal Power Commission issued its order entered May 18, 1948, in the above-designated matter suspending, for remainder of the calendar year 1948, the operation of Article 24 of the license relative to water releases for fish-life in the Pit River.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 48-4728; Filed, May 26, 1948;
8:45 a. m.]

[Project No. 1890]

CHAMPION SILLIMANITE, INC., ET AL.

NOTICE OF ORDER APPROVING TRANSFER OF LICENSE (MAJOR)

MAY 21, 1948.

In the matter of Champion Sillimanite, Incorporated and Murray Dale Weaver and Lona Marie Weaver.

Notice is hereby given that, on May 20, 1948, the Federal Power Commission issued its order entered May 18, 1948, approving transfer of License (major) in the above designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 48-4729; Filed, May 26, 1948;
8:45 a. m.]

[Project No. 1974]

KELSEY CREEK IMPROVEMENT ASSN.

NOTICE OF ORDER AUTHORIZING ISSUANCE OF LICENSE (MINOR)

MAY 21, 1948.

Notice is hereby given that, on May 20, 1948, the Federal Power Commission issued its order entered May 18, 1948, authorizing issuance of license (minor) in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 48-4730; Filed, May 26, 1948;
8:46 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-1833]

NORTH AMERICAN CO. AND UNION ELECTRIC CO. OF MISSOURI

NOTICE OF FILING, NOTICE OF AND ORDER FOR HEARING AND ORDER TO SHOW CAUSE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 20th day of May 1948.

Notice is hereby given that The North American Company ("North American"), a registered holding company,

and its subsidiary, Union Electric Company of Missouri ("Union"), a registered holding company and an electric utility company, have filed a joint application and declaration pursuant to the applicable provisions of the Public Utility Holding Company Act of 1935 ("Act") and the rules and regulations promulgated thereunder.

North American owns 100% of the outstanding Common Stock and 87.94% of the outstanding voting stock of Union. It also owns all of the outstanding capital stock of West Kentucky Coal Company ("West Kentucky"), a non-utility company incorporated in New Jersey. Union is engaged primarily in the transmission, distribution and sale of electric energy, which it generates and purchases from its wholly owned electric utility subsidiary, Union Electric Power Company, an Illinois corporation. The territory served by Union and its subsidiaries include the City of St. Louis, Missouri and its environs, adjoining territory in Illinois including the City of East St. Louis, and areas surrounding Keokuk, Iowa and Osage, Missouri.

West Kentucky and its subsidiaries are engaged primarily in mining coal in Kentucky. North American has been directed by an order of the Commission, entered on April 14, 1942, under section 11 (b) (1) of the act, to sever its relationship by disposing of or causing the disposition of its direct and indirect ownership, control and holding of securities issued and properties owned, controlled or operated by West Kentucky and its subsidiaries.

All interested persons are referred to said application-declaration which is on file in the office of this Commission for a statement of the transactions therein proposed, which are summarized below:

North American proposes to transfer its entire holdings of 857,264 shares of Common Stock of West Kentucky to Union as a contribution to capital. Union proposes to acquire such shares of Common Stock and to record the same on its books as a credit to Capital Surplus in the amount of the underlying asset value of such shares on the books of West Kentucky, as of the date of such acquisition. The underlying asset value of the stock of West Kentucky, as shown on the books of that Company at December 31, 1947, was \$13,286,513.04. North American proposes to transfer to its investment in Common Stock of Union the amount of \$3,801,541.51, which amount is equivalent to the carrying value on North American's books of the shares of West Kentucky stock proposed to be transferred.

Sections 9 (a) (1), 10, 11 (b) (1) and 12 (b) of the act and Rules U-23, U-43, U-45 and U-50 thereunder are designated by applicants-declarants as applicable to the proposed transactions. Applicants-declarants state that the specifications as to the procedures considered necessary or appropriate to be followed in this proceeding will be made during the course of the hearing herein, as provided for by the provisions of Rule III (e) of the Commission's rules of practice. Applicants-declarants represent that no state commission having jurisdiction to

regulate public utility companies and no Federal commission other than this Commission has jurisdiction over applicants-declarants either in the making or the acceptance of the proposed capital contribution.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that a public hearing be held with respect to the proposed transactions for the purpose of affording an opportunity to all interested persons to present evidence and be heard with respect to the proposed transactions contained in said joint application-declaration; and that appropriate notice thereof be given to all interested parties:

It is ordered, That a hearing upon said matters shall be held under the applicable provisions of the act and rules promulgated thereunder on June 15, 1948, at 10 a. m., e. d. s. t., at the office of the Securities and Exchange Commission, 425 Second Street NW., Washington, D. C., in such room as may be designated at such time by the hearing room clerk in Room 101.

The Division of Public Utilities of the Commission having advised the Commission that it has made a preliminary examination of the joint application-declaration and that, upon the basis thereof, the following matters and questions are presented for consideration without prejudice, however, to the presentation of additional matters and questions upon further examination:

1. Whether the proposed acquisition by Union and disposition by North American of the shares of Common Stock of West Kentucky is in violation of the Commission's order of April 14, 1942, relating thereto (Holding Company Act Release No. 3405), and, if so, whether such application-declaration should therefore be dismissed, or whether the said order should be revoked or modified because the conditions upon which such order was predicated do not exist.

2. Whether the proposed capital contribution by North American to Union satisfies the requirements of section 12 of the act and rule U-45 thereunder.

3. Whether the proposed acquisition by Union from North American of the shares of Common Stock of West Kentucky satisfies the requirements of section 10 of the act and particularly the requirements of sections 10 (b) (3) and 10 (c) (1).

4. Whether the accounting entries proposed to be made upon the books of the applicants-declarants to reflect the proposed transactions are proper, conform to sound accounting principles and meet the standards of the act.

5. Whether terms or conditions, if any, with respect to the proposed transactions should be prescribed in the public interest or for the protection of investors or consumers, and, if so, what such terms and conditions should be.

It is further ordered, That at said hearing evidence shall be adduced with respect to the foregoing matters and questions and that, as the first order of business at such hearing, applicants-declarants shall show cause why the application-declaration should not be dismissed on the grounds that it tends to circum-

vent the provisions of the Act and is in violation of the Commission's order of April 14, 1942.

It is further ordered, That Robert P. Reeder or any other hearing officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The hearing officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the act and to a hearing officer under the Commission's rules of practice.

It is further ordered, That any person desiring to be heard in connection with these proceedings or proposing to intervene herein shall file with the Secretary of the Commission, not later than June 11, 1948, his request or application therefor, as prescribed by Rule XVII of the rules of practice of the Commission. Such request shall set forth the nature of the applicant's interest in the proceedings, his reasons for requesting to be heard or to intervene, which of the allegations and issues, as set forth herein, applicant proposes to controvert, together with a statement of any additional issues which the applicant proposes to raise with respect to the proposed transactions.

It is further ordered, That the Secretary of the Commission shall serve notice of the aforesaid hearing by mailing a copy of this notice and order by registered mail to The North American Company, Union Electric Company of Missouri, Federal Power Commission, Public Service Commission of Missouri, Illinois Commerce Commission and the City of St. Louis, Missouri; that notice be given to all other persons by publication of a copy of this notice and order in the FEDERAL REGISTER and by general release of the Commission distributed to the press and mailed to the mailing list for releases under the Public Utility Holding Company Act of 1935.

By the Commission.

[SEAL]

ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 48-4733; Filed, May 26, 1948;
8:46 a. m.]

[File No. 70-1835]

PENNSYLVANIA ELECTRIC CO. AND
ASSOCIATED ELECTRIC CO.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 20th day of May A. D. 1948.

Notice is hereby given that Associated Electric Company ("Aelec"), a registered holding company, and its subsidiary, Pennsylvania Electric Company ("Penelec"), have filed, pursuant to the Public Utility Holding Company Act of 1935, a joint application. Applicants have designated sections 6 (b), 9 (a), and 10 of the act as applicable to the proposed transactions.

Notice is further given that any interested person may, not later than June 9, 1948, at 5:30 p. m., e. d. s. t., request

the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of his interest, and the issues of fact or law raised by said joint application which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after June 9, 1948, said joint application, as filed or as amended, may be granted as provided in Rule U-23 of the rules and regulations promulgated under the act or the Commission may exempt such transaction as provided in Rule U-20 (a) and Rule U-100 thereof.

All interested persons are referred to said joint application which is on file in the offices of this Commission for a statement of the transactions therein proposed, which are summarized as follows:

Penelec will issue and sell at private sale to the Mellon National Bank and Trust Company, of Pittsburgh, Pennsylvania, at face amount, its unsecured promissory note for \$1,900,000 principal amount, maturing 18 months after the date of issue thereof and bearing interest at a rate not in excess of 2% per annum.

Penelec will issue and sell 80,000 shares of its \$20 par value common stock to Aelee for an aggregate consideration of \$1,600,000 in cash. Such issuance and sale will be made not later than one year after the issuance by Penelec of the promissory note to the Mellon National Bank and Trust Company.

Of the proceeds to be realized by Penelec from the sale of its promissory note, \$500,000 will be applied by it to the payment of \$500,000 principal amount of presently outstanding unsecured notes and the balance of the proceeds realized from the sale of the note, together with the proceeds realized from the sale by it of the 80,000 shares of its common stock, will be applied by Penelec to its general construction program.

A copy of the securities certificate issued by the Pennsylvania Public Utility Commission authorizing Penelec to issue the 80,000 shares of its common stock and the \$1,900,000 principal amount of unsecured note is attached to the joint application as an exhibit.

Applicants request that the Commission enter its order at the earliest date practicable.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 48-4734; Filed, May 26, 1948;
8:46 a. m.]

[File No. 1-697]

EUREKA WILLIAMS CORP.

NOTICE OF APPLICATION TO WITHDRAW FROM
LISTING AND REGISTRATION, AND OF OP-
PORTUNITY FOR HEARING

At a regular session of the Securities
and Exchange Commission, held at its

office in the city of Washington, D. C.,
on the 21st day of May A. D. 1948.

Eureka Williams Corporation, pur-
suant to section 12 (d) of the Securities
Exchange Act of 1934 and Rule X-12D2-
1 (b) promulgated thereunder, has made
application to withdraw its Common
Stock, \$5.00 Par Value, from listing and
registration on the Detroit Stock Ex-
change.

The application alleges that (1) all the
operations have been removed from the
State of Michigan; (2) the stock is now
distributed on a nation-wide basis, so
that the stock is no longer primarily of
local interest; (3) the volume of trad-
ing on the Detroit Stock Exchange has
decreased to the point where 100 shares
(exclusive of odd lots) were traded in
the year 1947; (4) the prices at which
transactions are effected on this ex-
change do not constitute as accurate an
indication of market price as do the
prices at which transactions are effected
on the New York Stock Exchange in the
same security; (5) this security will con-
tinue to remain registered and listed on
the New York Stock Exchange; and (6)
there are no provisions in the constitu-
tion, by-laws, or rules of the Detroit
Stock Exchange relating to the with-
drawal of a security from registration
and listing on the Exchange.

Upon receipt of a request, prior to June
30, 1948, from any interested person for
a hearing in regard to terms to be im-
posed upon the delisting of this security,
the Commission will determine whether
to set the matter down for hearing. Such
request should state briefly the nature
of the interest of the person requesting
the hearing and the position he proposes
to take at the hearing with respect to
imposition of terms or conditions. In ad-
dition, any interested person may sub-
mit his views or any additional facts
bearing on this application by means of
a letter addressed to the Secretary of
the Securities and Exchange Commis-
sion, Washington, D. C. If no one re-
quests a hearing on this matter, this ap-
plication will be determined by order
of the Commission on the basis of the
facts stated in the application, and other
information contained in the official file
of the Commission pertaining to this
matter.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 48-4735; Filed, May 26, 1948;
8:46 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub.
Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50
U. S. C. and Supp. App. 1, 616, E. O. 9193,
July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567,
June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788,
Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 11220]

JOHANN GEYER

In re: Certificates of deposit owned by
the personal representatives, heirs, next
of kin, legatees and distributees of

Johann Geyer, also known as Johann
Georg Geyer, deceased. F-28-25316-D-1.

Under the authority of the Trading
With the Enemy Act, as amended, Exec-
utive Order 9193, as amended, and
Executive Order 9788, and pursuant to
law, after investigation, it is hereby
found:

1. That the personal representatives,
heirs, next of kin, legatees and distrib-
utees of Johann Geyer, also known as
Johann Georg Geyer, deceased, who
there is reasonable cause to believe are
residents of Germany, are nationals of
a designated enemy country (Germany);

2. That the property described as fol-
lows: All rights in and under those cer-
tain Certificates of Deposit for 10 Year
Secured 6½% Sinking Fund Gold Bonds
of Botany Consolidated Mills, Inc., said
certificates issued by The Chase Na-
tional Bank of the City of New York as
Depositary for Bondholders Protective
Committee for the aforesaid Bonds,
numbered M 2972 and M 2973, represent-
ing an aggregate of \$2,000.00 principal
amount and registered in the name of
Johann Geyer, including particularly but
not limited to the rights to receive the
aforesaid Bonds of Botany Consolidated
Mills, Inc., deposited with The Chase
National Bank of the City of New York,
together with any and all rights to ex-
change said bonds for Botany Worsteds
Mills Preferred and Class A Stock and
any and all accrued and unpaid divi-
dends thereon,

is property within the United States
owned or controlled by, payable or de-
liverable to, held on behalf of or on ac-
count of, or owing to, or which is evidence
of ownership or control by, the personal
representatives, heirs, next of kin, lega-
tees and distributees of Johann Geyer,
also known as Johann Georg Geyer, de-
ceased, the aforesaid nationals of a
designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the persons
referred to in subparagraph 1 hereof are
not within a designated enemy country,
the national interest of the United States
requires that such persons be treated as
nationals of a designated enemy country
(Germany).

All determinations and all action re-
quired by law, including appropriate con-
sultation and certification, having been
made and taken, and, it being deemed
necessary in the national interest,

There is hereby vested in the Attorney
General of the United States the prop-
erty described above, to be held, used, ad-
ministered, liquidated, sold or otherwise
dealt with in the interest of and for the
benefit of the United States.

The terms "national" and "designated
enemy country" as used herein shall have
the meanings prescribed in section 10 of
Executive Order 9193, as amended.

Executed at Washington, D. C., on May
7, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-4746; Filed, May 26, 1948;
8:51 a. m.]